

## REMARKS

This paper responds to the Office Action dated January 25, 2010. Claims 33, 43, and 53-54 are presently amended. Claims 1-32 were previously canceled. No claims are presently canceled or presently added. As a result, claims 33-54 remain pending in this application.

### *The Rejection of Claims Under § 102*

Claims 33-54 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fishkin et al. (U.S. Patent 5,841,437, “Fishkin”). To anticipate a claim, a reference must disclose **each and every element** of the claim,<sup>1</sup> as arranged in the claim,<sup>2</sup> and in as complete detail as in the claim.<sup>3</sup> Applicants respectfully assert that Fishkin fails to disclose each and every element of independent claims 33, 43, and 53-54.

Each of independent claims 33, 43, and 53-54 is amended herein solely for clarity purposes, with no new matter added. As amended herein, each of independent claims 33, 43, and 53-54 recites, in part, “**receiv[ing] a first selection** from the user via the first search interface, the first selection indicating the first search criteria as selected for inclusion in the first search query and **indicating the second search criteria as deselected from inclusion in the first search query.**”<sup>4</sup> The Office Action cited column 17, lines 5-67 of Fishkin as allegedly disclosing this claim element.<sup>5</sup>

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<sup>1</sup> “A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed Cir. 1987), cited in *Ex parte Frye*, Appeal No. 2009-006013 (BPAI 2010) (precedential), emphasis added.

<sup>2</sup> “To establish anticipation, every element and limitation of the claimed invention must be found in a single prior art reference, **arranged as in the claim.**” *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383; 58 U.S.P.Q.2d 1286, 1291 (Fed. Cir. 2001), cited in *Ex parte Frye*, Appeal No. 2009-006013 (BPAI 2010) (precedential), emphasis added.

<sup>3</sup> “The identical invention must be shown **in as complete detail** as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989), cited in MPEP § 2131, emphasis added.

<sup>4</sup> Emphasis added.

<sup>5</sup> Office Action at 3.

The cited passage of Fishkin merely states that “[t]he NOT operation is encoded as a [viewing operation region] whose **filter inverts** the sense of the data coming in.”<sup>6</sup> The same passage of Fishkin explicitly states that “[a viewing operation region] . . . is defined as having a **filtering** function and a composition mode which describes how the result of the filtering function is combined with the output of another [viewing operation region].”<sup>7</sup> The same cited passage of Fishkin provides an example:

[C]onsider the **query** (F1 OR NOT F2), where F1 and F2 filter for various attributes. To implement this query, the user would initially position the VOR with filter F2, then the VOR with the **NOT filter** N and then the VOR with filter F1 with its composition mode set to OR.<sup>8</sup>

Therefore, according to Fishkin, the NOT operation is an inverting filter that is nonetheless selected for inclusion in a query.

In logic, **inversion** or **negation** of selected search criteria is not the same as **deselection** of that search criteria. Search criteria selected for inclusion in the query remain selected regardless of inversion or negation. Although the Office Action stated that the cited passage of “Fishkin shows the user can deselect or use the NOT function to eliminate the second attribute,”<sup>9</sup> Applicants respectfully note that use of a NOT operator fails to eliminate search criteria from a search query. Rather, the NOT operator specifically incorporates the search criteria into the search **query**, even though the NOT operator may eliminate certain search **results**. Accordingly, the cited passage of Fishkin makes no mention of receiving a selection that indicates search criteria as deselected from inclusion in a search query. Thus, the cited passage of Fishkin fails to disclose this claim element.

The remainder of Fishkin likewise fails to disclose this claim element. Nothing in Fishkin, therefore, discloses **receiving a selection** that indicates first search criteria as selected for inclusion in a search query and **that indicates second search criteria as deselected from inclusion in the search query**.

<sup>6</sup> Fishkin at column 17, lines 19-20, emphasis added.

<sup>7</sup> *Id.* at column 17, lines 8-11, emphasis added.

<sup>8</sup> *Id.* at column 17, lines 24-29, emphasis added.

<sup>9</sup> Office Action at 3.

Because **each and every element** of independent claims 33, 43, and 53-54 is not disclosed in the cited reference, as arranged in the claims, and in as complete detail as in the claims, no *prima facie* case of anticipation is established with respect to the independent claims. For at least these reasons, independent claims 33, 42, and 53-54, and their respective dependent claims, are patentable over the cited reference. Moreover, the dependent claims may each be patentable based on elements recited therein. Thus, Applicants respectfully request that these rejections be reconsidered and withdrawn and that the claims be allowed.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4048 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of April, 2010.

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